

Marc D. Haefner
Eleonore Ofosu-Antwi
WALSH PIZZI O'REILLY FALANGA LLP
Three Gateway Center
100 Mulberry Street, 15th Floor
Newark, New Jersey 07102
Tel: (973) 757-1100

Of Counsel:

J. Stephen Simms
SIMMS SHOWERS LLP
201 International Circle, Suite 250
Baltimore, Maryland 21030
Tel: (410) 783-5795

Attorneys for Plaintiff E.N. Bisso & Son, Inc.

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

E.N. BISSO & SON, INC.,

Plaintiff,

v.

TUG LINDA LEE BOUCHARD, BARGE B-205,
Their equipment and appurtenances, and freights,

Defendants *in rem*.

Civil Action No. 2:19-cv-21925

IN ADMIRALTY, Rule 9(h)

Filed Electronically

**E.N. BISSO VERIFIED
FIRST AMENDED COMPLAINT WITH REQUEST
FOR RULE C ARREST**

E.N. Bisso & Son, Inc. ("E.N. Bisso") brings this action against Defendant Bouchard Transportation Company, Inc. ("Bouchard") *in rem* for E.N. Bisso's claims against the tug M/V LINDA LEE BOUCHARD, O.N. 1189191 ("Tug") and tank barge B. NO. 205, O.N. 1191747 ("Barge") pursuant to Supplemental Rule C for Certain Admiralty and Maritime Claims and states as follows:

Jurisdiction and Venue

1. This is an action within this Court's admiralty jurisdiction pursuant to 28 U.S.C. § 1333 and is an admiralty or maritime claim within Fed. R. Civ. P. 9(h).

2. Venue is proper in this District because the Tug and Barge are or soon will be located in this District.

The Parties

3. E.N. Bisso is a corporation duly organized under Louisiana.

4. Tug LINDA LEE BOUACHARD and tank Barge B. NO. 205 are an Articulated Tug Barge unit that transports petroleum cargoes that comprise the maritime vessels located or soon to be located in this District, owned and/or operated by Bouchard Transportation Company ("Bouchard").

Facts

5. E.N. Bisso provides tugboats for ship-assist towage services for the docking and undocking operations as well as assistance with anchoring, turning, holding in to berth and other forms of towage of ocean-going vessels and tug/barge units. Bouchard is a tug and barge company which owns and operates vessels for the transportation of petroleum and other cargoes. Bouchard ordered tug service for the Tug and Barge from E.N. Bisso for provision of ship-assist towage in the form of several types of tug assistance service to the Tug and Barge, pursuant to E.N. Bisso's contractual terms and conditions.

6. E.N. Bisso provided that tug service to the Tug and Barge at various points and places in the Lower Mississippi River, and rendered invoices to the Tug and Barge and/or its owner or operator, Bouchard, for the towage ordered by Bouchard, as follows:

Invoice	Invoice Date	Service Dates	Location (Louisiana)	Invoice Amount
142814	6/30/2019	6/9-11/2019	PF & T Mt. Airy	\$30,972.00
149275	6/30/2019	6/28-30/2019	PF & T Mt. Airy	\$30,697.00
143493	7/31/2019	7/23-24/2019	PF & T Mt. Airy	\$24,635.45
143550	7/31/2019	7/25/2019	Belle Chasse Anchorage	\$2,011.90
143926	8/21/2019	8/14-17/2019	Blackwater Harvey	\$3,887.40
144504	9/25/2019	9/19-21/2019	Blackwater Harvey	\$4,057.90
144848	10/17/2019	10/11-15/2019	Perry Street Wharf	\$3,989.70
144912	10/22/2019	10/16-18/2019	PF & T Mt. Airy	\$3,989.70
144968	10/23/2019	10/20/2019	LaGrange Anchorage	\$794.60
145472	11/22/2019	11/17-18/2019	Blackwater Harvey	\$3,921.00
				<u>Total: \$105,035.65</u>

7. The tug service for towage which E.N. Bisso provided the Tug and Barge is a maritime necessary within the express meaning of 46 U.S.C. § 31301(4), and E.N. Bisso holds maritime liens against the Tug and Barge *in rem* in the amount of its services provided to the Tug and Barge, pursuant to 46 U.S.C. § 31342. Despite repeated demand, the Tug and Barge, or its owner and operator, Bouchard, has failed to pay E.N. Bisso's invoices for the tug services which E.N. Bisso provided and has breached its contract with E.N. Bisso.

8. The Tug and Barge are presently within the jurisdiction of this Court but may leave at any time.

Count I – Breach of Maritime Contract

9. E.N. Bisso incorporates the above paragraphs as if fully set forth herein.

10. Bouchard as owner and operator of the Tug and Barge has breached its maritime contract with E.N. Bisso as set out above. E.N. Bisso therefore demands judgment, as set out more fully below.

Count II – E.N. Bisso – Maritime Lien In Rem Against the Tug and Barge

11. E.N. Bisso incorporates the above paragraphs as if fully set forth herein.

12. E.N. Bisso as a consequence of the rendered towage to the Tug and Barge, a maritime necessary, directly to the Tug and Barge on the order of the Tug's owner and Barge's operator and accepted by the Tug and Barge without complaint, holds maritime liens *in rem* against the Tug and Barge in the amount of its services provided. E.N. Bisso therefore demands judgment against the Tug and Barge, *in rem*, as set out more fully below.

Prayer for Relief

WHEREFORE, E.N. Bisso prays that this Court:

- A. Order the issue of warrants for arrest of the Tug and Barge, *in rem*;
- B. Order that the *in rem* claims of E.N. Bisso proceed against the Tug and Barge, *in rem*, and that on judgment and sale of the Tug and Barge, or from the provision of any security accepted by this Court and/ or E.N. Bisso, that E.N. Bisso's maritime lien claims *in rem* be paid from the proceeds, in the amount of at least **\$105,035.65** and maritime prejudgment interest, and costs of arrest and of this action;
- C. That this Court award E.N. Bisso such other and further proper relief.

Dated: December 26, 2019

WALSH PIZZI O'REILLY FALANGA LLP

s/ Marc D. Haefner

Marc D. Haefner
Eleonore Ofosu-Antwi
Three Gateway Center
100 Mulberry Street, 15th Floor
Newark, New Jersey 07102
E-mail: mhaefner@walsh.law
E-mail: eofosuati@walsh.law
Tel: 973-757-1100

Of Counsel:

J. Stephen Simms
Simms Showers LLP
201 International Circle
Baltimore, Maryland 21030
Email: jssimms@simmsshowers.com
Tel: 410-783-5795

VERIFICATION

I am a Principal of the law firm Simms Showers LLP, of counsel to E.N. Bisso.

The facts alleged in the foregoing complaint are true and correct to the best of my knowledge and information based upon the records of E.N. Bisso made available to me by E.N. Bisso. Authorized officers of E.N. Bisso are not readily available in this District to make verifications on E.N. Bisso's behalf. I am authorized to make this verification on E.N. Bisso's behalf.

Pursuant to 28 U.S.C. § 1746(1), I solemnly declare under penalty of perjury that the foregoing is true and correct.

Dated: December 24, 2019

s/ J. Stephen Simms

J. Stephen Simms
SIMMS SHOWERS LLP
201 International Circle
Baltimore, Maryland 21030
Tel: 410-783-5795
Email: jssimms@simmsshowers.com